

AMENDMENTS TO THE DRAWINGS

The attached replacement drawing sheet includes changes to Fig. 1 and replaces the original drawing sheet containing Fig. 1. Applicant has amended Fig. 1 to include an optional electric supply 21.

The attached new drawing sheet introduces New FIG. 3 which shows a gas controller having a servo pump with a channel therein.

Applicant respectfully asserts no new matter has been added, and respectfully requests consideration and approval by the Examiner.

Attachment: Replacement drawing sheet including Fig. 1
New drawing sheet showing Fig. 3

REMARKS

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The Office Action dated June 3, 2005, indicated that claims 1-11 are allowed; the drawings stand objected to; claims 18-19 stand rejected under 35 U.S.C. 112, second paragraph; claims 12 and 14-16 stand rejected under 35 U.S.C. §102(b) as being anticipated by Miller (U.S. Patent No. 4,744,336); and claims 13, 17 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Miller.

Applicant appreciates the Examiner's indication of allowability of claims 1-11.

Applicant submits that the amendments to the drawings and the specification overcome the objection thereto. Specifically, FIG. 1 has been modified to include an optional electric source 21, and new FIG. 3, corresponding generally to FIG. 1, includes a channel 31 in a servo valve 2.

Applicant respectfully traverses the rejection of claims 12 and 14-16 under §102(b) because the Office Action failed to show complete correspondence between the '336 reference and all of the claimed limitations. For example, the Office Action cites an engine coolant jacket 10 as both a pressure housing and an inlet, whereas claim 12 is directed to limitations including "a pressure housing having an inlet and an outlet..." It is unclear as to how the engine coolant jacket 10 is both the pressure housing and an inlet as asserted in the Office Action. The Office Action further cites an enclosure 24 of a servo controlled valve 18 as a channel between an inlet and an outlet of a pressure housing (10, 18); however, the servo controlled valve 18 has an inlet 20 that is separate from the engine coolant jacket 10 asserted as the pressure housing. In this regard, Applicant submits that the asserted engine coolant jacket 10 and servo controlled valve 18 are not a pressure housing as claimed in the present invention, and further submits that the corresponding enclosure 24 is not a channel between an inlet of the engine coolant jacket 10 and an outlet 26 of the servo controlled valve.

In addition to the above, Applicant submits that the engine coolant pump 16, asserted as a "control pump," functions to facilitate flow through the entire arrangement including the engine coolant jacket 10, the servo controlled valve 18 and the radiator 14, whereas control of

the piston valve 42 is effected with an electric servo control valve 74. That is, the electric servo control valve 74 in the '336 reference appears to control the differential pressure between an inlet passage 34 and the piston valve 42, rather than the engine coolant pump 16. In this regard, the engine coolant pump 16 does not appear to correspond to the claimed limitations as asserted in the Office Action.

In view of the above, the Office Action has failed to show correspondence between the '336 reference and the limitations in claim 12 and, accordingly, the claims dependent therefrom. In addition, the Office Action failed to show correspondence between the '336 reference and certain other limitations in the dependent claims. Considering claim 15 as an example, the Office Action failed to point out or even mention where the '336 reference shows limitations directed to "an overflow device adapted to flow gas between the auxiliary chamber and the inlet in response to a pressure differential between the auxiliary chamber and the inlet."

In view of the above, the Section 102(b) rejection is improper and should be removed. Notwithstanding the impropriety of the Section 102(b) rejection, claims 12 and 14-16 have been cancelled in the interest of furthering prosecution.

Turning now to the Section 103(a) rejection, Applicant respectfully traverses the rejection of claims 13 and 17 - 20 because the Office Action failed to establish a *prima facie* case of obviousness. Specifically, the office action failed to cite teaching or suggestion of all of the claim limitations, and further failed to cite any evidence of motivation for making the proposed modifications to the '336 reference.

As discussed above in connection with the Section 102(b) rejection, the Office Action failed to show correspondence between the '336 reference and various limitations in claim 12. As claims 13 and 17-19 depend from claim 12, and as claim 20 includes certain limitations that are similar to the limitations in claim 12, Applicant submits that the Section 103 rejection has also failed to show teaching or suggestion of all of the claimed limitations in relying on the assertions made in the Section 102(b) rejection. In addition, the Office Action has also failed to show teaching or suggestion of certain limitations in the claims dependent from claim 12 as well as independent claim 20 rejected under Section 103(a).

Referring to claim 13, the Office Action has not shown any teaching or suggestion of the claimed limitations directed to “a diaphragm between the auxiliary chamber and the channel and adapted to apply moving force that tends to open the valve arrangement in response to a gas pressure in the channel being higher than gas pressure in the auxiliary chamber.” The discussion on page 3 of the Office Action, suggesting the replacement of the piston in the ‘336 reference with a diaphragm, does not show or even consider how such a replacement teaches limitations directed to a diaphragm between an auxiliary chamber and a channel. That is, replacing the piston valve 42 with a diaphragm would remove/replace the valve because the “piston” 42 is the valve; therefore, the diaphragm would have no valve arrangement to open. It is further unclear as to how the ‘336 reference could operate under such conditions.

Claims 18 -20 are also directed to limitations including a diaphragm, with the Section 103(b) rejection thereof failing for reasons similar to those discussed above in connection with the diaphragm-based limitations of claim 13.

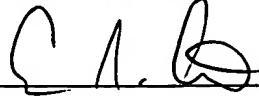
The Office Action has also failed to show any teaching or suggestion of limitations in claim 17 directed to a prestressing means. Instead of citing any portion of the ‘336 or another reference, the Office Action has offered an apparent inherency-type argument, suggesting on page 4 that such means is obvious yet providing no evidence supporting that suggestion. Relevant law indicates that such an inherency-type argument, without supporting evidence, is improper.

The Office Action has further failed to cite any evidence of motivation for modifying the ‘336 reference as asserted in the Section 103(a) rejection. For example, the Office Action relies upon two suggestions of obviousness on page 4, without citing any supporting evidence from the prior art. Relevant case law indicates that such hindsight speculation in regard to asserted motivation for modifying a primary reference is improper without evidence supporting the assertions of motivation.

In view of the above, the Office Action has failed to establish a *prima facie* Section 103(b) rejection of claims 13 and 17-20, and the rejection should be removed. Notwithstanding the impropriety of the Section 103(b) rejection, Applicant has cancelled claims 13 and 17-20 in the interest of furthering prosecution.

Applicant believes that the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,



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